



# California Regional Water Quality Control Board

## San Diego Region

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(858) 467-2952 • Fax (858) 571-6972  
[http:// www.waterboards.ca.gov/sandiego](http://www.waterboards.ca.gov/sandiego)

October 20, 2008

Lisa Zawaski  
City of Dana Point  
33282 Golden Lantern  
Dana Point, CA 92629-0805

**CERTIFIED MAIL**  
7007 0710 0000 5763 4960  
In reply refer to:  
**NWU:18-2002145.02:cloflen**

CIWQS:  
Place No. 260014

Dear Ms. Zawaski:

**SUBJECT:** Amendments to CWA Section 401 Water Quality Certification  
No. 02C-145

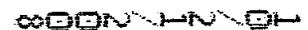
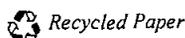
On July 31, 2008 the California Regional Water Quality Control Board, San Diego Region (Regional Board) received a request from the City of Dana Point to amend the Salt Creek Ozone Treatment Facility (Project) Section 401 Water Quality Certification, File No. 02C-145 (Certification), to modify the monitoring and reporting requirements for Nitrate and Ammonia.

The Project is a dry-weather storm drain treatment facility that uses ozone to treat up to 1000 gallons per minute of dry weather flows prior to discharge at Salt Creek beach. The City of Dana Point proposes to reduce influent and effluent monitoring of Nitrate and Ammonia for the Project from monthly to every other month, and reduce reporting from quarterly to annually. The City of Dana Point is requesting an amendment to the Certification for these reductions.

After review of the Project's file, the past monitoring data for Nitrate and Ammonia and a site visit on October 2<sup>nd</sup>, we concur that the proposed changes are reasonable modifications to the original Section 401 Water Quality Certification. As a result, the Section 401 Water Quality Certification for the Salt Creek Ozone Treatment Facility has been amended to reflect the proposed changes. The amendments are included as Enclosure 1.

The heading portion of this letter includes a Regional Board code number noted after "In reply refer to:" In order to assist us in the processing of your correspondence please include this code number in the heading or subject line portion of all correspondence and reports to the Regional Board pertaining to this matter. If you have any questions regarding this notification, please contact Chad Loflen at (858) 467-2727 or [cloflen@waterboards.ca.gov](mailto:cloflen@waterboards.ca.gov).

*California Environmental Protection Agency*



Respectfully,



JOHN H. ROBERTUS  
Executive Officer

Enclosures

1. Addendum No. 3 to Clean Water Act Section 401 Water Quality Certification No. 02C-145.
2. Addendum No. 2 to Clean Water Act Section 401 Water Quality Certification No. 02C-145, dated November 09, 2006.
3. Addendum No. 1 to Clean Water Act Section 401 Water Quality Certification No. 02C-145, dated July 15, 2005.
3. Clean Water Act Section 401 Water Quality Certification No. 02C-145, dated April 18, 2003.

cc (via email only):

Stephanie Hall, US Army Corps of Engineers Regulatory Branch, Los Angeles CA  
Stephanie.j.hall@usace.army.mil

Bill Orme, State Water Resources Control Board, Division of Water, Quality 401 Water  
Quality Certification and Wetlands Unit,  
BOrme@waterboards.ca.gov

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD,  
SAN DIEGO REGION**

**ADDENDUM NO. 3 TO**

**CLEAN WATER ACT SECTION 401  
WATER QUALITY CERTIFICATION NO. 02C-145**

**FOR**

**SALT CREEK OZONE TREATMENT FACILITY**

Condition II.B.3(e) is modified:

The City shall submit **annual quarterly** monitoring reports to the Regional Board **on or before December 15<sup>th</sup>, with the first annual report due on or before December 15<sup>th</sup> 2009. Annual reports shall be submitted** until such a time the Regional Board deems sufficient to determine the level of impact from the discharges. Data shall be included in an electronic format. The first quarterly report shall be due within 60 days of initiation of discharge from the treatment facility, unless notified by the Regional Board of an appropriate later submittal date.

Condition II.B.3(g) is modified:

The water quality monitoring program shall include monitoring for nitrate and ammonia in influent and effluent samples of the Salt Creek Treatment Facility in accordance with the frequencies below.

Parameter	Reporting Unit	Monitoring Frequency
Nitrate	mg/L	<b><u>Every Other Month.</u></b>
Ammonia	mg/L	<b>Monthly.</b> Effluent samples shall be collected at a time following influent samples that approximates the treatment duration in order to effectively assess the effect of the facility



**NOTIFICATIONS**

1. All information requested in this Certification addendum is pursuant to Water Code Sections 13267 and 13383. Requirements established pursuant to Water Code Sections 13267(b) or 13383 are enforceable when signed by the Executive Officer of the Regional Board.
2. Pursuant to Water Code section 13268, any person failing or refusing to furnish technical or monitoring program reports as required by Section 13267, or falsifying any information provided therein, is guilty of a misdemeanor, and may be liable civilly in an amount which shall not exceed one thousand dollars (\$1,000) for each day in which the violation occurs.
3. Pursuant to Water Code Section 13385, a violation of requirements established pursuant to Water Code Section 13383 may subject you to civil liability of up to \$10,000 per day for each day in which the violation occurs.

  
\_\_\_\_\_  
JOHN H. ROBERTUS  
Executive Officer

10/20/2008  
Date



CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD,  
SAN DIEGO REGION

ADDENDUM NO. 2 TO

CLEAN WATER ACT SECTION 401  
WATER QUALITY CERTIFICATION NO. 02C-145

FOR

CITY OF DANA POINT

Pursuant to Sections 3860, 13225, 13267, and 13383 of Division 7 of the California Water Code (Water Code), Clean Water Act Section 401 water quality certification no. 02C-145 is amended as follows:

1. Condition no. II.B.3(d) is deleted:

II.B.3(d) ~~The proposal for water quality monitoring may be consistent with the technical report required by letter dated March 6, 2003 to the City by the Executive Officer of the Regional Board pursuant to California Water Code Sections 13225, 13267, and 13383.~~

2. Condition no. II.B.3(g) is added:

II. B.3(g) The water quality monitoring program shall include monitoring for nitrate and ammonia in influent and effluent samples of the Salt Creek Treatment Facility in accordance with the frequencies below.

<u>Parameter</u>	<u>Reporting Unit</u>	<u>Monitoring Frequency</u>
Nitrate	mg/L	<u>Monthly. Effluent samples shall be collected at a time following influent samples that approximates the treatment duration in order to effectively assess the effect of the facility.</u>
Ammonia	mg/L	

3. Condition no. II.B.5 is added:

II.B.5. All applications, reports, or information submitted to the Regional Board shall be signed and certified as follows:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

**NOTIFICATIONS**

1. All information requested in this Certification addendum is pursuant to Water Code Sections 13267 and 13383. Requirements established pursuant to Water Code Sections 13267(b) or 13383 are enforceable when signed by the Executive Officer of the Regional Board.
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3. Pursuant to Water Code Section 13385, a violation of requirements established pursuant to Water Code Section 13383 may subject you to civil liability of up to \$10,000 per day for each day in which the violation occurs.

  
\_\_\_\_\_  
JOHN H. ROBERTUS  
Executive Officer

11-9-2006  
Date



# California Regional Water Quality Control Board San Diego Region



Alan C. Lloyd, Ph.D.  
Secretary for  
Environmental  
Protection

Over 50 Years Serving San Diego, Orange, and Riverside Counties  
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(858) 467-2952 • Fax (858) 571-6972  
<http://www.waterboards.ca.gov/sandiego>

July 15, 2005

In reply refer to: WPN:18-2002145.02:haasj

Matthew Sinacori, City Engineer  
City of Dana Point  
33282 Golden Lantern  
Dana Point, CA 92629-1805

Dear Mr. Sinacori:

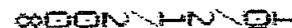
## SALT CREEK OZONE TREATMENT PLANT – SUMMERTIME OUTFALL PIPE

This letter is in response to the City of Dana Point's request for information regarding waste discharge requirements and section 401 water quality certification for a proposed discharge from the Salt Creek Ozone Treatment Facility. We understand that this facility would collect Salt Creek flows from a large culvert at Monarch Beach and divert the flows for treatment at an upland facility. The plant would be sized to handle up to 1,000 gallons per minute and function year-round, except in storm events. Ozone technology would kill indicator bacteria and pathogens. Effluent from the facility would then be discharged back to the influent point, except in the summer when a 10-inch temporary outlet pipe would extend 240 feet to the high tide line.

We established conditions by letter dated March 3, 2003 for the original project as an interim measure for abating pollutants in MS4 discharges. The temporary summer outlet pipe is a proposed revision. The original conditions reflected our understanding that the treated stream water would be discharged back to the stream at the point of the diversion. We are less comfortable regulating the discharge with the MS4 permit as the discharge point gets further away from the diversion point, especially when the diversion point is to another water body. We are, therefore, considering the need for individual NPDES permits, or a general NPDES permit, for this type of discharge. As we further evaluate NPDES alternatives within our resource constraints, we will continue to rely on the MS4 NPDES permit for your proposed summertime discharge in 2005.

We understand that the project is currently under construction and that the City intends to implement the summer outfall pipe this summer between September 1 and October 15, 2005 as a short-term demonstration. The summer pipe would be constructed only if shoreline recreational use water quality objectives are exceeded following bacteria regeneration in the stream flow between the original discharge point and the beach. In subsequent summers, the City would implement the summer outfall pipe from approximately Memorial Day to Labor Day if shoreline bacteria monitoring necessitates beach postings.

*California Environmental Protection Agency*



### **Short Term Demonstration, Summer 2005.**

The focus of the municipal storm water program is on source reduction through modification of behavior/practices, in combination with the use of on-site structural best management practices, rather than on regional end of pipe treatment or diversion. We realize, however, that there are cases where offsite structural BMPs, in combination with source reductions, may be more feasible in the short-term. We will consider the discharge for the period from September 1 to October 15, 2005 as an interim measure for abating pollutants from inland storm drain discharges under the MS4 permit, provided the City satisfies the following conditions of an amended Section 401 Water Quality Certification.

As a result of proposed project changes, the conditional Section 401 Water Quality Certification no. 02C-145 issued April 18, 2003 to the City of Dana Point has been amended as follows:

- II.A.11 Discharges to the ocean from the proposed summer pipe extension will not commence until at least 7 days of data from the plant's discharge to the concrete apron (original proposed discharge location) are assessed and found to contribute to elevated levels of indicator bacteria at the shoreline as a result of regrowth between the apron and the shoreline.
- II.A.12 The summer pipe will be removed for the season prior to October 15 or any anticipated rain event greater than 0.8 inch based on a five day forecast, whichever is sooner.
- II.B.3.f Based on a review of previously submitted data near the influent point, the City of Dana Point shall conduct weekly effluent monitoring to ensure the discharge from the summer effluent pipe does not exceed Ocean Plan criteria. Monitoring shall be conducted for at least the following constituents: Chromium, copper, nickel, zinc, ammonia, indicator bacteria (fecal Coliform and Enterococcus), selenium, and total chlorine residual. Metals shall be reported as total recoverable.
- i. Results shall be submitted to the Regional Board weekly.
  - ii. If any constituent is found to exceed daily or instantaneous limits for two sampling events, the discharge shall be terminated for the season or additional treatment shall be provided prior to the discharge.
  - iii. A final report shall be submitted prior to December 31, 2005.

### **Ocean Discharges after Summer 2005.**

In order to discharge Salt Creek Ozone Treatment Facility effluent to the shoreline from the summertime pipe after 2005, the City of Dana Point must submit a report of waste discharge at least 180 days prior to the anticipated discharge. This report must include the results of monitoring collected during the 2005 demonstration period, and those results should be assessed





# California Regional Water Quality Control Board

## San Diego Region



Winston H. Hickox  
Secretary for  
Environmental  
Protection

Internet Address: <http://www.swrcb.ca.gov/rwqcb9/>  
9174 Sky Park Court, Suite 100, San Diego, California 92123  
Phone (858) 467-2952 • FAX (858) 571-6972

Gray Davis  
Governor

Action on Request for  
Clean Water Act section 401 Water Quality Certification  
and Application/Report of Waste Discharge  
for Discharge of Dredged and/or Fill Materials

*File copy*

**PROJECT:** Salt Creek Storm Drain Treatment Facility Project  
(File No. 02C-145)

**APPLICANT:** Mr. Matthew Sinacori  
City of Dana Point  
33282 Golden Lantern  
Dana Point, CA 92629-0805

**ACTION:**

1.  Order for Standard Certification
2.  Order for Technically-conditioned Certification
3.  Order for Denial of Certification

**I. STANDARD CONDITIONS:**

The following three standard conditions apply to all certification actions, except as noted under Condition 3 for denials (Action 3).

1. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to section 13330 of the California Water Code and section 3867 of Title 23 of the California Code of Regulations (23 CCR).
2. This certification action is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to 23 CCR subsection 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. The validity of any non-denial certification action (Actions 1 and 2) shall be conditioned upon total payment of the full fee required under 23 CCR section 3833, unless otherwise stated in writing by the certifying agency.

*California Environmental Protection Agency*

**II. ADDITIONAL CONDITIONS:****A. PROJECT CONDITIONS**

1. The City of Dana Point, (hereinafter applicant) shall, at all times, fully comply with the engineering plans, specifications and technical reports submitted with this application for 401 Water Quality Certification and all subsequent submittals required as part of this certification.
2. The applicant shall, at all times, fully comply with the requirements of Regional Board Order No. 2001-01, the Municipal Storm Water Permit (NPDES No. CAS0108758).
3. This Certification is not transferable to any person except after notice to the Executive Officer of the San Diego Regional Water Quality Control Board (Regional Board). The applicant shall submit this notice in writing at least 30 days in advance of any proposed transfer. The notice must include a written agreement between the existing and new owner containing a specific date for the transfer of this Certification's responsibility and coverage between the current discharger and the new discharger. This agreement shall include an acknowledgement that the existing owner is liable for violations up to the transfer date and that the new owner is liable from the transfer date on.
4. In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under state law. For purposes of section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this certification.
5. In response to a suspected violation of any condition of this certification, the Regional Water Quality Control Board (RWQCB) may require the holder of any permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring reports the RWQCB deems appropriate, provided that the burden, including costs, of the reports shall be a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
6. In response to any violation of the conditions of this certification, the RWQCB may add to or modify the conditions of this certification as appropriate to ensure compliance.
7. Best management practices shall be used during the construction phase in accordance with an erosion control and materials management plan that shall be kept on-site.
  - a) Erosion control measures shall be used on exposed hillsides during the construction phase to prevent discharges of sediment to receiving waters.

8. The applicant shall implement measures outlined in the Operations and Maintenance Plan submitted with the application for Section 401 water quality certification.
  - a) The City shall maintain the outlet apron as necessary to avoid conditions of nuisance from accumulated trash and debris.
  - b) Waste removed during operations and maintenance procedures shall not be discharged to receiving waters.
  - c) The City shall report any spills or other discharges of waste to receiving waters related to maintenance procedures within 48 hours of discovery.
9. The above-ground project infrastructure located at or adjacent to the outfall apron, including, but not limited to the concrete berm, manifolds, and outfall pipe, shall not be abandoned in place. The infrastructure shall be removed, and the apron reconfigured to pre-project contours should the applicant, operator, or Regional Board determine the facility to be inoperable or unnecessary to achieve its intended objectives.
10. If at any time impacts from the project are determined by the Regional Board to be substantial and not proportional to the mitigation measures, the Regional Board may consider requiring the applicant or operator to remove the facility and restore the site to pre-project conditions.

## B. MITIGATION

1. The applicant shall implement mitigation measures as specified in the application for 401 water quality certification and all subsequent submittals required as part of this certification.
  - a) Educational signs shall be installed within the immediate area of the Salt Creek outlet apron in such a manner that will discourage contact with water that is ponded by the berm on the apron structure.
  - b) Habitat mitigation measures shall consist of trash and debris removal from the apron, outlet structure, and immediate vicinity of the adjacent downstream riprap.
2. A qualified biologist shall be onsite at least once a day during construction activities. The biologist shall be given the authority to stop all work onsite if a violation occurs or has the potential to occur.

3. Water quality shall be assessed by a discharge monitoring program.

- a) At least 30 days prior to any discharge from the Salt Creek treatment facility, the City shall submit a water quality monitoring program for review to the Regional Board.
- b) The water quality monitoring program shall assess the quality of water of the influent and effluent of the treatment system.
- c) The water quality monitoring program shall evaluate the collected data relative to water quality objectives and beneficial uses of the beach and downstream of the effluent discharge point.
- d) The proposal for water quality monitoring may be consistent with the technical report required by letter dated March 6, 2003 to the City by the Executive Officer of the Regional Board pursuant to California Water Code Sections 13225, 13267, and 13383.
- e) The City shall submit quarterly water quality monitoring reports to the Regional Board until such time the Regional Board deems sufficient to determine the level of impact from the discharges. Data shall be included in an electronic format. The first quarterly report shall be due within 60 days of initiation of discharge from the treatment facility, unless notified by the Regional Board of an appropriate later submittal date.

4. If at any time impacts from the project are determined by the Regional Board to be substantial and not proportional to the mitigation measures, the Regional Board may consider requiring the applicant to remove the facility and restore the outfall/apron site to pre-project conditions.



**ATTACHMENT 1**

**PROJECT INFORMATION**

**Applicant:** Mr. Matthew Sinacori  
City of Dana Point  
33282 Golden Lantern  
Dana Point, CA 92629-0805  
949-248-3577  
949-248-7372 (f)

**Applicant Representatives:** n/a

**Project Name:** ✓ Salt Creek Storm Drain Treatment Project (File No. 02C-145)

**Project Location:** ✓ The project site is within the City of Dana Point, at the mouth of Salt Creek.

**Type of Project:** storm drain outlet improvements

**Project Description:** ✓ The City of Dana Point proposes to construct a storm drain treatment facility and associated improvements to an existing outfall structure in order to treat up to 1000 gallons per minute of urban runoff at the mouth of Salt Creek, prior to discharging to the beach. Runoff would be collected by placing a berm and sump at an existing concrete apron that outlets to Salt Creek and Monarch Beaches. Collected water would then be pumped uphill to a treatment facility to be constructed on the Monarch Links Golf Course, and treated water would be discharged via a new pipe to existing riprap at the end of the concrete outfall apron. The facility is proposed to be operational on a year-round basis during dry weather in order to improve the condition of ocean waters at the beach.

**Federal Agency/Permit:** U.S. Army Corps of Engineers Section 404 NWP No. 7

**Other Required Regulatory Approvals:** California Department of Fish and Game Streambed Alteration Agreement. Regular Coastal Development Permit from City of Dana Point (CDP-02-16).

**California Environmental Quality Act (CEQA) Compliance:** The City of Dana Point approved a Mitigated Negative Declaration on November 13, 2002.

**Receiving Water:** Mouth of Salt Creek (Dana Point HSA 901.14)

Impacted Waters of the United States:	The proposed project will result in the construction of a berm and intake manifold on the concrete outfall apron of the Salt Creek outlet covering approximately 0.003 acre.
Dredge Volume:	n/a
Related Projects Implemented/to be Implemented by the Applicant(s):	n/a
Avoidance/Minimization Measures:	Confining structural elements to concrete apron and constructing the treatment facility on an upland area, discharging effluent adjacent to existing outfall location.
Compensatory Mitigation:	Trash and nuisance debris will be regularly removed from the outfall apron.
Best Management Practices:	Construction-phase BMPs include erosion control and materials management BMPs. The project is an interim urban runoff treatment BMP.

**ATTACHMENT 2  
DISTRIBUTION LIST**

U.S. Army Corps of Engineers  
Attn: Stephanie Hall  
Los Angeles District  
Regulatory Branch  
P.O. Box 532711  
Los Angeles, CA 90053

State Water Resources Control Board  
Division of Water Quality

State Water Resources Control Board  
Bruce Locken

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 Lisa Zawaski  
 33282 Golden Lantern  
 Dana Point, CA 92629-0805

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 Street, Apt. No., or PO Box No. 33282 Golden Lantern  
 City, State, ZIP+4 Dana Point, CA 92629-0805

PS Form 3800, August 2006 See Reverse for Instructions

